

**§ 305.9 Project phasing and Investment disbursement.**

(a) EDA may authorize in advance the award of construction contracts in phases, provided the Recipient submits a request that includes each of the following:

- (1) Valid reasons justifying why the Project must be phased;
- (2) Description of the specific elements to be completed in each phase;
- (3) Detailed construction cost estimates for each phase;
- (4) Time schedules for completing all phases of the Project;
- (5) Certification that the Recipient can and will fund any overrun(s); and
- (6) Certification that the Recipient is capable of paying incurred costs prior to the first disbursement of EDA funds.

(b) EDA will begin disbursement of funds after receipt of evidence sufficient to EDA of compliance with all Investment award conditions. EDA may approve the disbursement of funds prior to the tender of all construction contracts if the Recipient can demonstrate to EDA's satisfaction that a severe financial hardship will result without such approval.

**§ 305.10 Bid underrun and overrun.**

(a) *Underrun*. If at the construction contract bid opening, the lowest responsive bid is less than the total Project cost, the Recipient shall notify EDA immediately to determine relevant procedures.

(b) *Overrun*. (1) In the case of an overrun at the construction contract bid opening, the Recipient may:

- (i) If provided for in the bid documents, take deductive alternatives to eliminate certain Project elements in case of insufficient funds in the exact order shown on the invitation for bid until at least one of the responsive bids, less deductive alternative(s), results in a price within the budget for that item of work;
- (ii) Reject all bids and re-advertise if there is a rational basis to expect that re-advertising will result in a lower bid; or
- (iii) Augment the Matching Share by an amount sufficient to cover the excess cost. The Recipient must furnish a letter to EDA identifying the source of the additional funds and confirming

that the Matching Share meets the requirements of § 301.5 of this chapter.

(2) If the Recipient demonstrates to EDA's satisfaction that the options listed in paragraph (b)(1) of this section are not feasible and the Project cannot be completed otherwise, the Recipient may submit a written request to EDA for additional funding in accordance with applicable EDA guidance. The award of additional Investment Assistance is at EDA's sole discretion and will be considered in accord with EDA's competitive process requirements. EDA's consideration of a request for additional Investment Assistance does not indicate approval.

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**§ 305.11 Contract awards; early construction start.**

EDA must determine that the award of all contracts necessary for design and construction of the Project facilities is in compliance with the terms and conditions of the Investment award in order for the costs to be eligible for EDA reimbursement. Pending this determination, the Recipient may issue a notice permitting construction under the contract to commence. If construction commences prior to EDA's determination, the Recipient proceeds at its own risk until EDA review and concurrence. The EDA regional office will advise the Recipient of the requirements necessary to obtain EDA's determination.

**§ 305.12 Project sign.**

The Recipient shall be responsible for the construction, erection and maintenance in good condition throughout the construction period of a sign or signs at a conspicuous place at the Project site indicating that the Federal government is participating in the Project. The EDA regional office will provide mandatory specifications for the signage.

**§ 305.13 Contract change orders.**

(a) If it becomes necessary to alter the construction contracts post-execution, the Recipient and contractor shall agree to a formal contract change order.

(b) All contract change orders must receive EDA review for compliance